

UNITED STATES DISTRICT COURT FOR THE
DISTRICT OF NEW HAMPSHIRE

Melvin C. Graham

v.

Civil No. 12-cv-271-JD

New Hampshire State Prison Warden

O R D E R

Melvin Graham, proceeding pro se, sought relief pursuant to 28 U.S.C. § 2254 from his state conviction and moved to compel the state court to enforce an order issued on November 28, 2011. The court granted the Warden's motion to dismiss the action as untimely filed and denied a certificate of appealability. Judgment was entered on December 10, 2012.

On January 14, 2013, Graham filed a motion for a certificate of appealability.¹ A certificate of appealability was denied in the court's prior order. Graham has not made a substantial showing of the denial of a constitutional right. See 28 U.S.C. § 2253(c)(2). Therefore, he is not entitled to a certificate of appealability.

¹The motion was too late to be considered as a motion for reconsideration under Federal Rule of Civil Procedure 59(e), nor would it meet the requirements necessary for reconsideration.

Conclusion

For the foregoing reasons, the plaintiff's motion for a certificate of appealability (document no. 10) is denied.

SO ORDERED.



Joseph A. DiClerico, Jr.
United States District Judge

January 29, 2013

cc: Melvin C. Graham #69736, pro se
Elizabeth C. Woodcock, Esquire